

19 September 1978

MEMORANDUM FOR: Director of Communications  
Director of Data Processing  
Director of Finance  
Director of Logistics  
Director of Medical Services  
Director of Personnel  
Director of Security  
Director of Training  
Special Support Assistant, DDA

STAT FROM:   
Assistant for Information, DDA

SUBJECT: S.2525 - Proposed Intelligence Charter Legislation -  
Title IV, CIA - Revision

REFERENCE: AI/DDA memo dated 25 Aug 78, same subject (DDA 78-1050/3)

1. Please find attached a copy of the OGC response to our comments on the draft of Title IV of the Charter Legislation (S.2525). Most of our concerns are addressed and in several instances our recommendations will be proposed.

2. Two issues, however, require more discussion with OGC:

a. Proprietaries (Section 423). We have been asked to express our concerns and comments relevant to proprietaries to  Chief, Operations and Management Division, OGC.

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b. The section on Travel and Other Expenses, Death Gratuities for Certain Agency Personnel (Section 441) defines the term "employee." This term needs to be more explicitly defined. It was also suggested that we discuss this with O&M, OGC.

3. We are preparing a memorandum to Chief, O&M to state the concerns we have expressed in earlier memoranda and invite further discussion of these issues. If after reading the attached you have any additional concerns, please contact me.

Attachment: a/s



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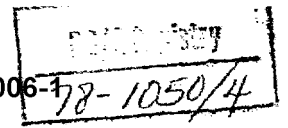
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Approved For Release 2003/03/06 : CIA-RDP86-00101R000100070006-1

OGC 78-5838

1 September 1978



MEMORANDUM FOR : Assistant for Information/DDA

STAT FROM :   
Assistant General Counsel

SUBJECT : S.2525 - Proposed Intelligence Charter  
Legislation - Title IV, CIA - Revision

REFERENCE : AI/DDA Memo, DDA 78-1050/3, Same Subject,  
Dated 25 Aug 1978

1. Thank you for your helpful comments regarding the Title IV revision. The following paragraphs respond to particular concerns expressed in the referenced memorandum.

2. Section 413(f)(5) - This does not grant the Director of Personnel personnel action authority over O/DNI employees. These authorities are provided as to the Agency in Section 421(j)(1) and (2), and as to the O/DNI in Section 114(m) and (n) where they are expressed as powers of the DNI.

3. Section 421(a)(5) - It was intended that Section 422(a) would provide overall, broad procurement authority. This has satisfied no one and we are requesting the restoration of 421(a)(5).

4. Section 421(a)(7) - We will propose your suggested language here.

5. Section 421(b) - It is being suggested that the reference to DNI and OMB be deleted, and it will be proposed that the Director of CIA be identified in 421(a)(1), rather than the DNI.

6. Section 421(h) - Both suggestions seem to be appropriate.

7. Section 422 - The whole area of accommodation procurement and how best to explain it to the Congress is under discussion in OGC.

8. ~~Approved For Release 2003/03/06 : CIA-RDP86-00101R000100070006-1~~  
curement authority, there would appear to be no real need to mention ordnance specifically.

9. Section 422(b) - This suggestion seems appropriate and will be proposed to the SSCI staff.

10. Section 423 - "Proprietary" will be defined elsewhere.

11. Section 423(d) - I have requested specific guidance in the "proprietary" area from [redacted] of the O&M Division of OGC (copy attached). I suggest that any particular comments or concerns you may have should be coordinated through that division.

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12. Section 426(a) - [redacted] OGC's appropriations and authorizations expert, does not believe this presents a problem in light of the specific nature of congressional authorization of Agency programs.

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13. Section 426(c)(3) - We are suggesting this be deleted.

14. Section 431(b)(1) - This is only a small part of the entire protection of sources and methods problem, the best approach to which is the current subject of an Administration study. Let me suggest, however, that loss of "usefulness" appears to be an overly amorphous standard for a criminal statute and may not exist or may be impossible to prove where there is no accompanying loss of safety.

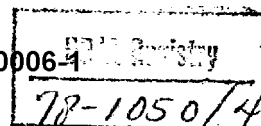
15. Section 441(a)(1) - While I am not totally familiar with the background of this problem, it would seem the OGC conclusion you state is based on case law in the absence of clear statutory authority. This provision would appear to clarify the situation by furnishing specific authority for the Agency to stipulate by contract as to entitlement to various benefits. This matter should be discussed with the OGC component, probably the O&M Division, which has rendered these opinions in the past.

16. Section 441(a)(3) - This modification will be proposed.

17. Section 442 - We are proposing a substitute paragraph which would merely affirm the continued existence of CIARDS.

18. We are proposing an addition to Section 424(2) to make clear the authority to continue to maintain relations with nonintelligence agencies.

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MEMORANDUM FOR : Chief, Operations & Management Division/OGC

FROM :

[Redacted]  
Assistant General Counsel

SUBJECT : S.2525 - Proposed Charter Legislation -  
Title IV, CIA - Proprietaries

1. As you know, on Tuesday, 1 August 1978, a group of OGC representatives (including [Redacted] of your office) met with Pat Norton, John Elliff, and Keith Raffel of the Senate Select Committee on Intelligence staff concerning CIA's suggested revisions of the proposed CIA charter.

2. Among other things, we discussed the changes proposed for Section 403(b), defining "proprietary," and Section 421(d)(1) and (2), concerning certain aspects of proprietary financing. (Copies attached.) In response to our previously expressed concerns regarding disposition of proceeds from liquidation of proprietaries, the staffers provided a draft of a new section which would replace Section 421(d) entirely. That proposal is attached also and I would appreciate your comments on this language.

3. The staffers were unable to rationalize the continued inclusion of the Attorney General in the liquidation procedure in Subsection (d) over our objection except to say that this was a recommendation of the Church Committee. (See Book I, Foreign and Military Intelligence, pp. 456-59, Rec. 52.) Your comments as to the acceptability or advisability of this requirement, representing on its face nothing more than a notification provision, also would be helpful.

4. In addition, you will note that the liquidation procedure continues to be keyed to proprietaries with a net value in excess of \$50,000.00. The staffers do not feel strongly about this particular figure as the "floor" for reporting proprietary liquidations and have indicated a willingness to modify the figure upward if the current level is so low as to cause needless administrative reporting of relatively trivial transactions. What is needed from you as the basis for urging any increase in this level is a specific breakdown of the numbers and net values of Agency proprietaries, and perhaps, an average net value figure, as well as some idea of how often various classes of proprietaries are liquidated.

5. The staffers continue to be nonreceptive to our requests for authority to utilize proprietary profits in excess of "operational requirements" for the purposes of establishing additional proprietaries. There was some discussion, at John Elliff's instigation, of the idea of an annually appropriated "revolving fund" into which excess profits would be poured and from which proprietary start-up monies could be drawn, but this concept was not endorsed warmly. If we are to make any headway in this regard, we must have some justification for such authorization. Can you generate any real instances, and the frequency with which they arise, in which requiring that excess proprietary profits be deposited in the Treasury and that new proprietaries be established from appropriations or supplemental appropriations would cause us problems? Why would not the Contingency Fund established in Section 425(c) be sufficient for these purposes?

6. Finally, as to the definition of "proprietary" now in Section 403(b), our suggested revisions were not deemed necessary but the definition is being reexamined and will be moved to Title I. Our interests would be served greatly if you are able to develop specific support for the changes we have proposed.

7. Generally, the sooner we are able to respond to these needs, and the more thorough and persuasive the nature of that response, the better our chances to influence the content of the revised version of Title IV. Thus, I would appreciate your comments as soon as is possible.

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Atts

cc:

OGC/ARC/lv

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1-OGC Subj LEGISLATION (ARC holding)

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